**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD**

**FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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**C.R.P. Nos.2768 and 2742 of 2005**

**Between**:

Smt. Shaik Asha Bibi (died) and others

… Petitioner

And

Smt.Nandhipati Lakshmi

… Respondent

DATE OF JUDGMENT PRONOUNCED: **12.08.2015**

**SUBMITTED FOR APPROVAL:**

**THE HON'BLE SRI JUSTICE G.CHANDRAIAH**

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No

2. Whether the copies of judgment may be marked to Law Reporters/Journals. Yes/No

3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No"

**C.R.P. Nos.2768 and 2742 of 2005**

**COMMON ORDER**:

Since these revision petitions have been arose out the common order dated 11.06.2015 passed in I.A. Nos.904, 900 and 903 of 2014 in O.S. No.24 of 2013 by the XVI Additional District and Sessions Judge, Nandigama, these revision petitions have been disposed of by this common order.

Petitioners 1 and 2 to 4 are the first defendant, died, and proposed defendants 2 to 4 and the respondent herein is the plaintiff in O.S. No.24 of 2013.

Undisputed facts in the instant case are that the plaintiff filed suit for recovery of money based on a registered mortgage deed dated 04.10.2008. Subsequently, on 09.11.2013 the 1st defendant was died and since no steps petition was filed, the suit against the defendant was abated. Consequently, I.A. Nos.904, 900 and 903 of 2014 were filed seeking to condone the delay of 333 days in filing the application, set aside the abatement order and to implead the respondents 2 to 4 as defendants 2 to 4 in the suit to substitute the deceased,

1st defendant, respectively. On consideration, the Court below while condoning the delay, set aside the abatement order and restored the suit and also permitted to bring the proposed party as defendants
2 to 4 in the suit to substitute the deceased defendant. Aggrieved by the same, the revision petitioners, defendants, filed the present revision petition.

The learned counsel for the revision petitioners submitted that there is enormous delay of 333 days in filing the petition and though the specific contentions urged before Court below to the effect that no sufficient cause has been shown and failed to explain the steps taken, the Court below erroneously allowed the applications. Hence,
the impugned common order is liable to be set aside by allowing the present revision petitions.

Heard the learned counsel for the revision petitioners and perused the material on record.

As could be seen from the impugned order, it is clear that the plaintiff stated to have been residing at Vijayawada and during January, 2014 to mid-September, 2014 she was suffering from sever jaundice and on advise of the doctor she had taken bed rest for some period and therefore, she could not contact her counsel for taking steps in the matter. Further, it is also categorically stated that the details of the legal representatives of the deceased defendant could not be procured by her as the family of the deceased defendant live at Jaggaiahpet and no information could be gathered by her due to non-cooperation of the family members of the deceased defendant. After due diligent enquiries, she could able to know that the proposed defendants 2 to 4 are the legal representatives of the deceased defendant, thereby there is a delay of 333 days in filing the L.R. application.

Though there was denial of the averments made by the plaintiff in the applications, the Court below did not accede with the same and held that no notice was given by the defendant's counsel about the death of the deceased defendant. It is also observed that the plaintiff specifically stated that she was suffering from jaundice and on advise of the doctor she was taken bed rest for some period and therefore, she could not contact her counsel. But, subsequently, making diligent enquiries, she could able to know that the proposed defendants 2 to 4 are the legal representatives of the deceased defendant and therefore, caused such delay.

Since the plaintiff categorically and elaborately gave the reasons for the delay in filing the L.R. petition and the Court below found that the reasons given by the plaintiff are sufficient to condone the delay,

I do not find any error committed by the Court below in passing the impugned order and therefore, there is no necessity by this Court to interfere with the impugned order.

With the above, these revision petitions are liable to be dismissed and accordingly, the same are dismissed.

As a sequel, miscellaneous petitions, if any, stands closed. There shall be no order as to costs.

**JUSTICE G.CHANDRAIAH**

**Date: 12.08.2015**
LSK